IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

CRP.No. 998 of 2006()

AGAINST THE ORDER DATED 15/11/2006 IN IN ARC 94/2003-04 IN EP.98/2000 of MUNI-MAGI.COURT,PONNANI

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REVN. PETITIONER: JUDGMENT DEBTOR:

T. PRADEEP KUMAR, AGED 28 YEARS,
S/O.THAMI, KANHIRAMUKKU AMSOM, DESOM,
PONNANI TALUK.

BY ADV. SRI.C.KHALID
SRI.N.GOPINATHA PANICKER
SRI.R.O.MUHAMED SHEMEEM
SRI.T.P.SAJID

RESPONDENTS: DECREE HOLDER:

M-28 MARANCHERY SERVICE CO-OPERATIVE
BANK, MARANCHERY, PONNANI, REPRESENTED BY ITS
SECRETARY K.M. PARAMESWARAN.

BY ADV. SRI.D.KISHORE

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 25/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.NO.3541 OF 2006 IN C.R.P.NO.998 OF 2006

DISMISSED

25.5.2007 SD/- PIUS C.KURIAKOSE, JUDGE.

PIUS C. KURIAKOSE,J.

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C.R.P.No.998 of 2006

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Dated: 25th May, 2007

ORDER

The revision petitioner who is the sole judgment-debtor in E.P.No.98 of 2006, a proceeding for execution of the award in A.R.C.No.94/2003-04 challenges the order of the execution court directing his arrest. Mr.C.Khalid, learned counsel for the petitioner submits that the finding of the learned Munsiff that the revision petitioner was having sufficient means to pay the decree debt and that there was negligent in the matter of paying the same is not based on any legal evidence. I do not think that the learned counsel is justified in submitting so. There was evidence of P.W.1. I notice that absolutely no counter evidence was adduced by the revision petitioner. Considering the request of the learned counsel to have a remand of the matter, I am inclined to do so, but only on terms. Mr.D.Kishore, counsel for the respondent submits that as on date the total E.P.claim is more than Rs.21,000/-. The impugned order will stand set aside on condition that the petitioner pays to the respondent either directly or by deposit before the court below a sum of Rs.5000/- within a period of six weeks from today. If payment or deposit is made within the stipulated time as directed above, the

matter will go back to the execution court which will permit both parties to adduce further evidence and take a fresh decision. This order will not stand in the way of the parties sorting out the issue amicably in the meanwhile.

The C.R.P. is disposed of as above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**